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U.S. Supreme Court
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IN THE
Supreme Court of the United States

OCTOBER TERM, 1944.

No. 1224

BEE RAY and NATHAN FORBES, doing business as Superior
Uniform Cap & Shirt Mfg. Co.,

Petitioners,

vs.

CHESTER BOWLES, Administrator, Office of Price Admin-
istration,

Respondent.

Petition for Writ of Certiorari and Brief in Support
Thereof.

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CHESTER BOWLES, Administrator, Office of Price Admin-
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Respondent.

PETITION FOR WRIT OF CERTIORARI.

*To the Honorable Harlan F. Stone, Chief Justice of the
Supreme Court of the United States, and to the
Honorable Associate Justices Thereof:*

Your petitioner, Bee Ray and Nathan Forbes, doing
business as Superior Uniform Cap & Shirt Mfg. Co., re-
spectfully petition this Honorable Court for a Writ of
Certiorari to the United States Circuit Court of Appeals
for the Ninth Circuit, to have certified to you the record
in the case of Bee Ray *et al.* v. Chester Bowles, Adminis-
trator, Office of Price Administration, and in respect
thereto respectfully allege as follows:

I.

Jurisdictional Statement.

(a) Jurisdiction is conferred upon this Court by Title 28, Section 347, United States Codes, Annotated, and by the Emergency Price Control Act of 1942 and as amended (Act January 30 1942, C. 26, 56 Stat. 23, Title 50, App. Secs. 901-946); Stabilization Act of 1942, Act of October 2, 1942, C. 578, 56 Stat. 765; Title 50, App. Sec. 961; Stabilization Act of June 30, 1944, C. 325, Title 1, Sec. 105, 58 Stat. 632, 638.

This is a collateral appeal to that of the Glick Brothers Lumber Company *et al.* v. Chester Bowles, Administrator, Office of Price Administration. The two cases were decided by the District Judge at the same time.

(b) The issues involved in the case, as far as the pleadings are concerned, are similar and the petitioners herein adopt the issues and grounds set forth in Glick Brothers Lumber Company *et al.* v. Chester Bowles, Administrator, as ground of its petition.

The charging part of the complaint for treble damages is as follows:

4. From and including January 27, 1943, to and including June 21, (2) 1943, the defendants, individually and doing business as Superior Uniform Cap & Shirt Mfg. Co., dealers in brass emblems for garrison caps, doing business at 134 East Third Street, in the City of Los Angeles, State of California, sold and delivered brass emblems for garrison caps to their customers, demanding and receiving a price or consideration for each such brass emblem for garrison caps in excess of the maximum price therefor established by the General Maximum Price Regulation, as amended (7 Fed. Reg.

3153, 3350, 3686, 3990, 3991, 4339, 4487, 4659, 4738, 5027, 5192, 5276, 5363, 5445, 5484 5585, 5775, 5784, 5783, 6058, 6081, 6212, 6616, 7093, 8 Fed. Reg. 8511).

5. All of the transactions referred to in Paragraph 4 hereof occurred more than six (6) months after the date of approval and enactment of the Act. None of the purchases referred to in Paragraph 4 hereof was made for use or consumption other than in the course of trade or business.

A single fact is set forth in this complaint from which the Court can tell that it has jurisdiction or the defendants can know that they have violated any price regulation, how they have violated it, when or where they have violated it, and since the complaint is highly penal in its nature, it is respectfully submitted that the complaint fails to state a claim for the relief to be had. [R. 3, 4.]

II.

Points Urged on Appeal.

The petitioner intends to urge the following matters on appeal:

1. The District Court acted correctly in dismissing the complaint.
2. The Circuit Court erred in reversing the judgment of dismissal of the District Court.
3. The statute upon which the complaint is based is so vague, indefinite and uncertain as to fail to form a standard of criminal conduct and therefore violates the Fifth Amendment to the Constitution of the United States. The statute lacks definition of who are purchasers in the course of trade or business.

(d) Grounds for Granting a Hearing on the Writ of Certiorari.

The questions raised by this petition are new and of great importance, and have been raised in many District and Circuit Courts throughout the United States, and many other cases are now pending in which a final determination of these issues is of great importance. The petitioners adopt the different points and grounds of the Glick Brothers Lumber Company and Glick Brothers individually case as though fully set forth herein to avoid repetition.

That the arguments presented in support of the petition for writ of certiorari in the case of Glick Brothers Lumber Company *et al.* v. Chester Bowles, Administrator, Office of Price Administration, are adopted as the points urged by this petitioner also.*

Cases Believed to Sustain Jurisdiction, and Cases and Statutes Relied On.

U. S. Codes, Title 28, Sec. 347;

Davies Warehouse Company v. Bowles, 88 L. Ed. 379;

Hecht v. Bowles, 88 L. Ed. 465;

Bowles v. Willingham, 88 L. Ed. 626, October Term 1943—No. 464;

Yakus v. United States, 88 L. Ed. 563, October Term, 1943—No. 374-5;

Bowles v. Seminole Rock & Gravel Company, 89 L. Ed. 687, October Term, 1944—No. 914.

*The search and seizure point in the Glick Brothers case is not involved in this case, but the statutory interpretation and sufficiency of the pleadings are involved.

Wherefore, the Petitioner prays that this Honorable Court grant certiorari and reverse the judgment of the Circuit Court and affirm the judgment of the District Court.

Respectfully submitted,

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